**FIRST-TIER TRIBUNAL**
**PROPERTY CHAMBER**
**(RESIDENTIAL PROPERTY)**

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| **Case Reference** | **:** | **MAN/00FF/LSC/2024/0611** |
| **Property** | **:** | **Flat B, 30 St Marys, York, YO30 7DD** |
| **Applicant** | **:** | **Dr. Iain Willis** |
| **Respondent** | **:** | **30 St Mary's Management Co Limited** |
| **Representative** | **:** | **Mr. Ashley Mehr of Churchills Estate Agents - Secretary of the Respondent** |
| **Type of Application** | **:** | **Landlord and Tenant Act 1985 – s 27A** |
| **Tribunal** | **:** | **Tribunal Judge L. White**<br>**Tribunal Member J. Bissett FRICS** |
| **Date and Venue of Hearing** | **:** | **22 January 2026**<br>**Harrogate Justice Centre** |
| **Date of Order** | **:** | **20 April 2026** |

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**ORDER**

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## DECISION

In respect of the service charge demand for the sum of £1,758 for works carried out to the gable end wall of the property the Tribunal determines that the service charge is reasonable and payable.

## INTRODUCTION

1. The applicant submitted an application under s27A Landlord and Tenant Act 1985 ("the Act") on 15 November 2024 in respect of one item included in the service charges for the year 2023-2024 in relation to Flat B, 30 St Mary's, York, YO30 7DD ("the Property").

2. The application is made against the management company of the Property – 30 St Mary's Management Co Limited.

## THE PROCEEDINGS

3. Directions for the application were made by a Legal Officer on 01 October 2025 ("the Directions Order").

4. The matter was listed for a hearing at 12noon on the 22 January 2026 at the Harrogate Justice Centre with an inspection of the Property beforehand.

## THE PROPERTY

5. The Tribunal inspected the Property on 22 January 2026. On the day of inspection, it was overcast with light rain. The Property is a basement flat of a three-storey Victorian Town House which comprises 8 flats in total ("the Building").

6. The Building was built circa 1850. The Tribunal inspected the Building from the pavement. The Tribunal did not enter the Building or inspect any internal areas or any of the flats within the Building.

7. Present at the inspection was the Applicant and his father, Mr. Stuart Willis. For the Respondent was their representative Mr. Ashley Mehr of Churchill Estate Agents along with two directors of the Respondent; Ms. Valerie Burgess and Mr. John Ramsdale. Mr. Peter Bebb, the previous agent and secretary of the Respondent, was also present.

## THE HEARING

8. The hearing took place at the Harrogate Justice Centre on 22 January 2026. All individuals who attended the inspection were present at the hearing bar Mr. Bebb.

### Documents

9. The Parties had filed and exchanged various documents in accordance with the Directions Order.

10. The parties jointly agreed a bundle for the hearing which consisted of 98 pages and included various emails, pictures of the gable end of the Building, a copy of the lease for the Property, various invoices and quotes and copy of a letter dated 22 August 2024 from Mr. Stuart Willis (the Applicant's father) of Yendall Engineering.

11. After the hearing the Tribunal requested written representation from the parties as to whether the statutory framework which applies to a demand for payment of a service charge, in particular s21B of the Landlord and Tenant Act 1985 and s47 of the Landlord and Tenant Act 1987 had been complied with. Written representations were received from both parties with additional documents.

**The Lease and the service charge machinery**

*12.* Within the agreed hearing bundle was a copy of the lease for the Property dated 9 August 1989 between Mr. and Mrs. E H Kemp (1) and 30 St Mary's Management Company Limited (2) and Mr. Clive Ashton (3) ("the Lease").

*13.* Pursuant to clause 2 (12) of the Lease the Lessee covenants with the Lessor and the Management Company:

> *"To pay to the Management Company in advance in the First day of April in each year the required proportion set out in Part II of the Fourth Schedule hereto of the total annual maintenance charges for supplying the services set forth in Part I of the Fourth Schedule hereto"*

14. Part II of the Fourth Schedule of the Lease states that the Lessee's contribution of the total annual maintenance shall be one eighth of the total cost of the expenses outgoings and other matters specified in Part I of the Fourth Schedule.

15. Part I of the Fourth Schedule of the Lease sets out the obligations of the Management Company. It includes at 2 (a) a provision "*to maintain in good repair and condition the outer walls and roof .....*"

16. Pursuant to clause 4 of the Lease the Management Company covenanted with the Lessor and the Lessee:
    *(1) To perform and observe the covenants or services set forth on Part I of the fourth Schedule hereto;*
    *(2) To use best endeavours to maintain the cost of the services at the lowest reasonable figure consistent with the due performance of its obligations.*
    *(3) To deal expeditiously with all reasonable complaints made to it by the Lessee.*
    *(4)...*

*(5) To notify the Lessor and the Lessee in writing on or about the first day of January in each year the amount of the total management costs for the following year required to be paid by the Lessee.*

**Law**

17. Section 27A (1) of the 1985 Act provides:

*An application may be made to the appropriate tribunal for a determination whether a service charge is payable and, if it is, as to-*

*(a) the person by whom it is payable,*
*(b) the person to whom it is payable,*
*(c) the amount which is payable,*
*(d) the date at or by which it is payable, and*
*(e) the manner in which it is payable.*

18. The Tribunal is "the appropriate tribunal" for these purposes, and it has jurisdiction to make a determination under section 27A of the 1985 Act whether or not any payment has been made.

19. The meaning of the expression "service charge" is set out in section 18(1) of the 1985 Act. It means:

> *… an amount payable by a tenant of a dwelling as part of or in addition to the rent–*
> *(a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements, or insurance or the landlord's costs of management, and*
> *(b) the whole or part of which varies or may vary according to the relevant costs.*

20. In making any determination under section 27A, the Tribunal must have regard to section 19 of the 1985 Act, subsection (1) of which provides:

> *Relevant costs shall be taken into account in determining the amount of a service charge payable for a period-*
> *(a) only to the extent that they are reasonably incurred, and*
> *(b) where they are incurred on the provision of services or the carrying out of works, only if the services or works are of a reasonable standard;*
> *and the amount payable shall be limited accordingly*

21. "Relevant costs" are defined for these purposes by section 18(2) of the 1985 Act as:
> *the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.*

22. Section 20B(1) of the 1985 Act provides:

> *If any of the relevant costs taken into account in determining the amount of any service charge were incurred more than 18 months before a demand for payment of the service charge is served on the tenant, then (subject to subsection (2)), the tenant shall not be liable to pay so much of the service charge as reflects the costs so incurred.*

23. Section 20B(2) provides an exception from this principle for cases where, during the initial 18-month period, the tenant has been given written notice that the costs in question have been incurred and that he or she will subsequently be required to contribute to them.

24. Section 21B of the 1985 Act requires that a demand for the payment of a service charge must be accompanied by a summary of the rights and obligations of tenants of dwellings in relation to service charges and gives the Secretary of state the power to prescribe the form and content of such a summary. This is contained in the Service Charges (Summary of Rights and Obligations, and Transitional Provisions) (England) Regulations 2007 which applies to demands made on or after 1st October 2007.

25. Where no summary is provided with a demand for a service charge then a tenant may withhold payment and any provisions of the lease relating to non-payment or late payment do not have effect (s21B(3) and (4)).

26. S47 of the Landlord and Tenant Act 1987 requires the landlord's name and address to appear on any "written demand" given to a tenant/leaseholder. A demand is defined as "a demand for rent or other sums payable to the landlord under the terms of the tenancy". S60(1) defines "landlord" as "the immediate landlord".

**The issues**

*27.* The parties agreed that the only sum in dispute is the cost incurred in September 2024 for works carried out by M.B.C Pointing Services ("MBC") for repointing works to the gable end of the Building. The estimate provided by MBC dated 10.05.2024 was in the sum of £11,720 plus Vat, total £14,064. This equated to £1,758 per leaseholder. The works described in the quote were *erect scaffold, grind out and repoint brickwork to gable end and chimney stack with hydrated lime mortar cement flaunching to chimney crown. Fit new downpipe* ("the Works"*).*

28. The Applicant confirmed the issues with this sum were:

(i) the Works carried out by MBC were unnecessary. Repointing was not required to resolve the damp issue complained of by other flat owners in the Building and therefore this figure was not *the lowest reasonable figure consistent with due performance of its obligation under Part I of the Fourth Schedule;* and

(ii) the sum of £1,758 is not due as the Management Company are in breach of clause 4.5 of the Lease.

29. The Applicant confirmed there were no other issues he was seeking determination on. Further, the Applicant accepted that if the Tribunal found the Works were necessary, the cost of £14,064, being £1,758 per leaseholder, was a reasonable figure for the Works.

**SUBMISSIONS AND EVIDENCE**

30. The Tribunal has carefully considered all the written evidence available at the hearing and the evidence provided in the hearing itself. The Tribunal has also considered the further representations made by the parties made after the hearing at the request of the Tribunal on compliance with the statutory framework for a valid service charge demand.

**WRITTEN REPRESENTATIONS OF THE PARTIES**

31. The parties provided written representations as to whether there has been a service charge demand made which complies with the statutory requirements, in particular 21B of the Landlord and Tenant Act 1985 and s47 of the Landlord and Tenant Act 1987.

32. Within the bundle the Tribunal and as part of the written representations has been provided with an email dated 2 August 2024 which demanded the payment of £1,758 as a "*your contribution per flat*".

33. The written representations from both parties included a document not contained in the agreed bundle being a "*Payment Request and/or Statement*" dated 2 September 2024. Both parties confirmed that the summary of the rights and obligations of tenants of dwellings in relation to service charges required under Section 21B of the 1985 Act was given.

34. The Applicant in his written representations states in relation to the statement dated 2 September 2024 that "I*t was addressed to the landlord but the management company incorrectly spelled the landlord's home address*". The Applicant is referring to his home address not that of the Landlord of the Building. The Applicant still received the statement despite the misspelling of his home address.

35. The Respondent in their written representations confirm that the Landlord's name and address are set out in the Statement dated 2 September 2024 and this is noted by the Tribunal.

36. The service charge demand dated 2 September 2024 is compliant with s47 of the Landlord and Tenant Act 1987 and includes the necessary statement of Rights and Obligations required in accordance with s20B of the Landlord and Tenant Act 1985.

37. The evidence provided in the agreed bundle and by Mr. Mehr at the hearing was that the s20 consultation process was followed.

**THE APPLICANT**

38. In his oral evidence before the Tribunal, the Applicant stated that he did not believe repointing of the gable end wall of the Building was necessary as it was his belief the damp experienced in Flat D and Flat F were as a result of a leaking rain water pipe ("RWP") rather than an issue with the gable end wall itself. The Applicant referred to the letter dated 22 August 2024 from Mr. S Willis of Yendalls Engineering Limited ("the Report") contained in the agreed bundle.

39. Mr. S. Willis referred to the Report and in particular the picture within the Report of the gable end wall. Mr. S. Willis stated that when he inspected the Building he also went inside Flat F and the area of damp inside Flat D was local to the overspilling RWP which had run down and saturated the wall. Mr. S. Willis stated that he did not believe that repointing the gable end wall would have any effect on the damp and it was all caused by the RWP overflowing. Mr. S Willis stated that he could see no evidence that there were holes in the brickwork or that a concrete mortar had been used at any time; his view was that the mortar was a sand lime mortar and repointing was unnecessary.

40. The Applicant stated that due to the cost of the Works a full report should have been obtained to establish the cause of the damp and the contractor quoting for the works were not qualified to make that determination. The Applicant stated those contractors would have a vested interest and not independent.

41. The Applicant further stated in relation to the Works there have been no specifications provided, no pictures of the progress which would have showed the holes in the brickwork and therefore no evidence this work was necessary and would resolve the damp issues experienced in Flat D and Flat F. The Applicant referred the Tribunal to the quote from MCB and the invoice received highlighting that the quote (as referred to at paragraph 27 above) included "*fit new downpipe*" and the invoice made no reference to a new downpipe. The Applicant asked if a new downpipe had been fitted as part of the Works.

42. The Applicant stated that he had not been notified that the cost of the Works would be included in the management costs in accordance with the provisions of the

Lease, in particular clause 4.5. The Applicant stated that he became concerned as to Works required and the cost of those when he received copies of the quotes in May 2024.

43. The Applicant stated that he was supportive of the upkeep of the Building but frustrated that more investigation was not carried out before having the Works completed.

**THE RESPONDENT**

44. Ms. Burgess gave evidence to the Tribunal that she did until the end of April 2023 manage the Building but at that time retired and management was passed to Mr. Peter Bebb to act as managing agent. Mr. Peter Bebb was not one of the leaseholders.

45. Ms. Burgess stated that during her time managing the Building whenever a contractor/workman came to the Building to carry out various works needed comments were always made to her about the gable end wall saying "that wall needs attention". Ms. Burgess stated that she had been told that there were holes in the mortar which was contributing to the water ingress which was in part due to a concrete mortar in patches having been used previously when it should be a sand lime mortar.

46. Ms. Burgess stated that Flat D and Flat F (being the flats which suffered the damp) and located on that side of the Building has always had issues of damp since she has lived in the Building being 15 years. Ms. Burgess stated that she had never met Tony Parker ("Tony") before Mr. Bebb had recommended him to carry out various works at the Building and that is was Tony who initially advised that the cause of the damp in Flats D and Flat F was due to water ingress through gaps in the brickwork and repointing of the gable wall was required to resolve the issue. Tony trading as Parkers Property Solutions, provided an estimate for the Works and this is included in the agreed bundle. The quote dated 26 January 2024 was £23,150.00.

47. Ms. Burgess stated it was one of the other directors of the Respondent, Katie Lloyd, who located MCB and obtained their quote for the Works in order to obtain a second opinion and quote. Ms. Burgess went on to state that as this was significantly cheaper than Tony's quote MCB were appointed to carry out the Works.

48. Mr. Burgess stated that due to emergency works carried out to the roof which utilised reserve funds the further demand for payment of £1,758 was made in order to carry out the Works. Ms. Burgess states the Works were time critical and although acknowledging the Report and the points raised the Works were booked in for September 2024 and had to be carried out before winter came as repointing works could not be undertaken during the winter period. Therefore, if not carried

out at that time it would lead to a further winter which Flat D and Flat F were being subjected to serious damp issues.

49. Ms. Burgess further stated that due to the urgency they couldn't have known in the January the exact charge to notify leaseholders and further no quotes were obtained at that time. Written evidence from Churchills in the agreed bundle states the s20 consultation procedure was followed in relation to the Works.

50. Ms. Burgess stated that the new downpipe was fitted when the Works were carried out.

51. Mr. Ramsdale, the owner of Flat F stated that there has been a damp problem in his flat for quite some time. After the Works have been carried out he hasn't had any reports of damp in the Flat. He stated it had been left for 9 months after completion of the Works before decorating to ensure the issue and been resolved.

52. Mr. Mehr stated that from his experience of property management when considering the pictures of the gable end wall prior to the Works it was evident to him there were gaps in the brickwork. Mr. Mehr further stated he has not had any reports of damp in Flat D or Flat F since the Works have been completed. Mr. Mehr stated that the Applicant had not raised any issues regarding the Works or the cost of those during the s20 consultation process.

**THE DETERMINATION**

53. The Tribunal heard evidence from both parties and the agreed bundle and submissions made by both parties.

54. Ms. Burgess' evidence was that during her time managing the Building contractors had advised her that the wall "*needed attention*", that Flat F had always had issues of damp and there were holes in some of the mortar of the gable end wall.

55. Mr. S Willis advised he saw no evidence of any holes during his inspection and due to the locality of the damp in Flat F that this was a direct result of the RWP overflowing. Ms. Burgess stated in her evidence that repair of the RWP was carried out as part of the Works.

56. There is no dispute that the Works were carried out. The evidence is that since those Works have been carried out there has been no reoccurrence of damp in either Flat D or Flat F. It has now been 16 months since the Works were carried out. On the available evidence this issue of damp has been resolved and remedied as a result of the Works.

57. Having considered the evidence as a whole, the Tribunal is satisfied that at the time the decision was taken it was reasonable for the management company to proceed with works addressing both the condition of the gable end wall and the RWP.

Where damp was affecting more than one flat in the Building and there were differing professional opinions as to its precise cause, the Tribunal considers that the management company was entitled to take a remedial approach which sought to address the identified risks in a comprehensive manner. In doing so, and having regard to its continuing obligations under the Lease to maintain the structure and exterior of the Building, the Tribunal finds that the scope of the Works fell within the range of reasonable steps open to the management company in the circumstances and determines that the Works were necessary and reasonable. The Tribunal considers that both the repointing of the wall and the replacement of the RWP together were required to resolve the issue of damp.

58. The Applicant has accepted that should the Tribunal find that the Works were necessary, the cost of £14,064, being £1,758 per leaseholder, was a reasonable figure for the Works.

59. The wording of clause 4.5 provides an obligation on the management company to provide in writing on or about the first day in January in each year the amount of the total management costs for the following year. This is not a strict time requirement due to the wording "on or about". The quotes for the Works were not known on or about the 1st January 2024. When the sums for the Works were known email correspondence was sent to leaseholders which was then followed by the Statement to the Applicant in September 2024. Further, even if there was a breach of clause 4.5 of the lease this would not alleviate the Applicant of his obligations to pay service charges which are due under the Lease. The sum of £1,758.00 is due and owing by the Applicant.

60. The Tribunal determines that the service charge of £1,758 for the Works is reasonable and payable for the reasons set out above.